



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/901,892	07/11/2001	Mitsuru Oonuma	520.40347X00	7870

20457 7590 09/11/2003

ANTONELLI, TERRY, STOUT & KRAUS, LLP  
1300 NORTH SEVENTEENTH STREET  
SUITE 1800  
ARLINGTON, VA 22209-9889

EXAMINER

LUDLOW, JAN M

ART UNIT	PAPER NUMBER
----------	--------------

1743

DATE MAILED: 09/11/2003

3

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/901,892

Applicant(s)

OONUMA ET AL.

Examiner

Jan M. Ludlow

Art Unit

1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 1743

1. Claims 7, 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

2. In claim 7, it is unclear whether the covers referred to are the segments or additional covers. In claim 9, "two surfaces of a portion inclined...with its upper..." is unclear.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

4. A person shall be entitled to a patent unless –

5. (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

8. Determining the scope and contents of the prior art.

9. Ascertaining the differences between the prior art and the claims at issue.

10. Resolving the level of ordinary skill in the pertinent art.

11. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Art Unit: 1743

12. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

13. Claims 1-4, 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO97/09621 (hereafter WO) in view of Liston et al.

14. The examiner notes that US Patent No. 6,440,369 is a 371 of PCT/JP96/02490 corresponding to WO97/09621. Thus, US Patent No. 6,440,369 is relied upon as a certified translation of WO97/09621, and references to column and line citations in 6,449,369 will be used in discussing WO97/09621.

15. WO teaches sample table 12, reagent table 22, and reaction table 3. Transparent (col. 4, line 67), curved cover 30 covers part of top plate 41, leaving table 12 mostly or completely exposed (Figures 1, 3). Parts of cover 30 are perpendicular to top plate 41 and portions extend toward the user. An indicator 42 is used to indicate when table 12 is stopped and it is safe to add a sample (col. 5, lines 31-62). The indicator is unilluminated when the table 12 is stopped and illuminated green when it is moving.

16. WO fails to teach illuminating the indicator when the rotor is stopped.

Art Unit: 1743

17. Liston et al teaches a device similar to that of WO. An indicator is illuminated one color when the table is stopped and another when it is moving (col. 6, lines 35-50).

18. It would have been obvious to illuminate the indicator of WO when the table is stopped in order to provide positive illumination signaling of both the stopped and moving conditions as taught by Liston.

19. Claims 5-8, 10 are rejected under 35 U.S.C. 102(b) as being anticipated by WO97/09621 (hereafter WO).

20. The examiner notes that US Patent No. 6,440,369 is a 371 of PCT/JP96/02490 corresponding to WO97/09621. Thus, US Patent No. 6,440,369 is relied upon as a certified translation of WO97/09621, and references to column and line citations in 6,449,369 will be used in discussing WO97/09621.

21. WO teaches sample table 12, reagent table 22, and reaction table 3.

Transparent (col. 4, line 67), curved cover 30 covers part of top plate 41, leaving table 12 mostly or completely exposed (Figures 1, 3). Sample table cover 10 is divided in two segments by safety groove 46a, and the surfaces of the groove constitute the instant protection plate. Part of the rear segment of cover 10 is under cover 30 as shown in figure 1, whereas the front segment is not.

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

23. Umetsu teaches sample table 10 protruding from lid 61 (Fig. 2).

24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jan M. Ludlow whose telephone number is (703) 308-

Art Unit: 1743

4039. The examiner can normally be reached on Monday-Thursday, 11:30 am - 8:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on (703) 308-4037. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Jan M. Ludlow  
Primary Examiner  
Art Unit 1743

Jml  
September 8, 2003